



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2207448
Applicant Name: Steve Zuvela for Brook Larsson
Address of Proposal: 4025 – 13th Avenue West

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to establish use for major vessel repair in existing 4,000 sq. ft. floating shed (vessel).

The following approvals are required:

- **Shoreline Substantial Development Permit** to establish use for major vessel repair in existing 4,000 sq. ft. floating shed (vessel). (SMC Chapter 23.60.840).
- **SEPA - Environmental Determination** - (SMC Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ EIS

☒ DNS

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site

The subject property is located on the south side of Salmon Bay, just east of the Ballard Bridge. The property where the floating shed is to be located is part of a larger site which is operated as Salmon Bay Terminals. The floating shed is to be located in an area leased from the Department of Natural Resources (DNR), which is identified by King County Parcel Identification Number

(PIN) 7666200121. The remainder of the site is identified by PIN 7666200120. Established uses of the property include cargo terminals, vessel repair, and seafood warehouse. Zoning on this site is General Industrial (IG1/U-45), with a 45-foot height limit. The site is also located within a designated shoreline Urban Industrial (UI) environment with a 35-foot limit, which may allow 55-feet in some cases, as discussed below.

Vicinity

Development surrounding this site consists mainly of marine-related industrial uses. The site is bounded to the north by the waters of the Salmon Bay Waterway. To the south is railroad right-of-way, with warehouse uses adjacent. The Ballard Bridge abuts the property to the west, and Fisherman's Terminal is west of the bridge. East of the property there are more marine-related warehouse, terminal and light industrial uses. The zoning on the east side of the Ballard Bridge is IG1/U-45 with a UI Shoreline Environment, and on the west side of the bridge, the zoning is IG1/U-45 with a UM (Urban Maritime) Shoreline Environment. South of the railroad right-of-way, the zoning changes to IB (Industrial Buffer) with no shoreline designation. North of site, in Salmon Bay, the zoning is IG1/U-45 with a CN (Conservancy Navigation) Shoreline Environment.

Proposal

The applicant proposes to continue to locate an existing floating boat repair shed on the portion of the site which is leased from DNR. The floating shed, which is currently moored at the subject site, will be used by Larsson Marine (as a tenant of the landlord, Salmon Bay Terminals) for major vessel repair, which is a marine retail service use. Depending on the needs of the lessor (Salmon Bay Terminals), the floating shed may be moored at any of Piers 1 through 3 (within the DNR leased area shown on the plans) at any given time. The purpose of this shoreline substantial development permit is to establish the use of the floating shed as major vessel repair.

The floating shed was designed to accommodate work on large vessels (up to 100 feet in length) without removing them from the water. (Alternately, a combination of smaller boats could be worked on simultaneously.) The structure was designed to support a lift for heavy parts and equipment, according to information in the project file. The 37-foot height of the structure (two feet above the 35-foot base height limit) will accommodate extra height that will be needed on occasion for operation of an equipment lift, as well as taller boat masts or other boat parts which may be extended during repair. Inside the floating shed, there is a large open water area with decks on two sides and a larger deck/staging area at the enclosed end. Over the staging area, there are two elevated floors which will be used as accessory offices and accessory storage for parts and equipment for Larsson Marine. The floating shed has an elevator that reaches all three levels.

The proposed over water, water-dependent major vessel repair (marine retail service use) is permitted outright in this General Industrial zone and the Urban Industrial Environment. The accessory office and accessory storage uses are also both permitted over water as accessory uses, only if the over-water location is necessary for the operation of the water-dependent or water-related use, per SMC 23.60.092. The applicant has provided a narrative on the plans, which explains how the area identified on the plans as "office, storage and break room" will be used,

and why they are also required to be located over water in the floating shed. According to that narrative, Larsson Marine has no full time office staff and the repair crew must have physical access to the phone, part catalogs, plans and specification and billing information from the boat repair area. In addition, on-site storage of boat parts and equipment is necessary for reasons of security and practicality. There would not be enough room on board a boat under repair to store needed parts, and the parts would be vulnerable to theft if not secured in storage. An accessory break room and restrooms for employees are also included in the floating boat repair shed.

Parking will be provided on the Salmon Bay Terminals site. Two spaces have been designated for the use of Larsson Marine on the plans. Access will also be provided across the larger Salmon Bay Terminals property, from 13th Avenue West and West Ewing Street.

Public Comment

No public comments were received during the public comment period, which ended on April 11th, 2003.

Other Agency Comment

The State Department of Ecology has reviewed the proposal and offered the following comment: "Coverage is required under the National Pollution Discharge Elimination System. Coverage under the General Boatyard Permit can be granted for boatyards building or repairing vessels under 65 feet. Shipyards repairing or constructing ships greater than 65 feet are required to obtain coverage under an Individual Shipyard NPDES permit."

A copy of the State DOE comment letter has been provided to the applicant.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy seeks to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. The proposed location for the floating boat

repair shed (existing) would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline. The proposed floating shed has been designed to ensure minimum impact to the public health, land, and the waters of the state, and their aquatic life. The location and the design of the floating shed will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on ensuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, that also incorporates the provisions of Chapter 173-27, WAC. Title 23 of the Municipal Code is also referred to as the Land Use and Zoning Code. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions which have also been set forth in the Land Use Code.

In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle Comprehensive Plan, and the purpose and locational criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of Section 23.60.152, the specific standards of the shoreline environment and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

The proposed development action will occur over water and is located within an Urban Industrial (UI) shoreline environment. The purpose of the UI Environment is to provide efficient use of industrial shorelines for water-dependent and water-related industrial uses. The code allows marine retail sales and services uses, including the proposed major vessel repair, outright over water, as a principal use on a waterfront lot within the Urban Industrial (UI) Shoreline Environment (SSMP 23.60.840).

The proposed project includes an existing accessory office and storage use, which the applicant has shown to be incidental to a permitted use. The applicant has also shown that the accessory uses are necessary for the operation of the water-dependent permitted principal use, and as such may also be located over water (SMC 23.60.092.C).

Marine retail sales and services must meet the development standards for the UI Environment (SSMP 23.60.870), as well as the general development standards for all shoreline environments (SSMP 23.60.152). Additionally, the proposed project must also meet the development standards of the underlying General Industrial (IG1 U/45) zone (SMC 23.50). The Director may attach to the permit or authorize any conditions necessary to carry out the spirit and purpose of, and ensure the compliance with, the Seattle Shoreline Master Program (SSMP 23.60.064).

Shoreline Policies

All discretionary decisions in the shoreline district require consideration of the Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's Land Use Element, and consideration of the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220. The policies encourage and support the retention and expansion of existing water-dependent businesses (please refer to Land Use Policies L339 and L342). An area objective for this portion of the Salmon Bay Waterway is to meet the long-term and transient needs of all Seattle's ships and boats -- including fishing, transport, recreation and military, while at the same time to protect and enhance migratory fish routes and feeding areas (please refer to Area Objectives for Shorelines of Statewide Significance, Policy L354 1d). The purpose of the Urban Industrial (UI) environment as set forth in Section 23.60.220.C.11 is to "provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views shall be secondary to industrial development an access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan."

The proposed major vessel repair use to be located in the floating boat shed is supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses are subject to the following:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as... fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels....
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers.
- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.
- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.

- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

The nature of the use is over water repair of large vessels. It is possible that at some time during operations spillage of debris or chemicals may occur. Therefore mitigation, including requirements for use of Best Management Practices (BMP) and spill prevention and control, is warranted.

As proposed and as conditioned below, the project complies with the above shoreline development standards. As conditioned below, the operation of the proposed major vessel repair facility over water, and related activities, should have minimal effects on migratory fish routes and does not warrant further conditioning.

SMC 23.60.870 – Development standards for the UI Environment

The proposal conforms to all of the development standards for the UI environment, with the exception of the 35-foot height limit. An exception is provided at SMC 23.60.872.B, for structures accessory to a water-dependent (or water-related) use which require additional height because of intended use. Such structures may be permitted to extend up to 55 feet in the Ship Canal area. The floating boat repair shed is shown on the plans to have a height of approximately 37 feet, which is two feet more than the 35-foot height permitted outright.

According to a letter in the project file (from Ramona Monroe of Stoel Rives, originally dated November 11, 2002): “The superstructure was designed and engineered for boat repair, including support of a lifting stage or platform from which to work and to lift heavy parts and equipment. The two feet of extra height will accommodate these activities as well as boat masts and other parts that may have to be extended during repair work. The approximate height of 37 feet does not impact any views.”

Because the additional height is necessary to accommodate the large boats the structure was originally designed to store and repair, and is an integral part of the structure, the minor increase of two feet above the 35-foot height limit is granted.

Conclusion

SMC Section 23.60.064 E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state’s Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated November 21, 2002. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: “Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,” subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D.1.7) mitigation can be considered. Thus, a more detailed discussion of some of the potential impacts is appropriate.

Short-Term Impacts

The proposal is to retain an existing floating boat repair shed at its existing location, and establish the use as major vessel repair (marine retail sales and service use). No land disturbing or construction activities are proposed. Because the floating shed is already moored at the proposed site, no new over water coverage is proposed. No short-term impacts are anticipated in association with the permit to establish use of the floating shed for major vessel repair.

Long-Term Impacts

Long-term or use-related impacts are anticipated from the proposal and include: increased ambient noise due to the work which will occur as part of the vessel repair activity and potential impacts on water quality. These long-term impacts are not considered significant because the impacts are minor in scope. Several adopted Codes and Ordinances and other agencies will appropriately mitigate the other use-related adverse impacts created by the proposal. Therefore, no further mitigation is warranted.

Environmental Health

SEPA Policy 25.05.675-F provides the authority to mitigate impacts resulting from toxic or hazardous materials and transmissions. The location of the subject project is over water on the Salmon Bay Water Way in the Ship Canal. The nature of the use is over water repair of large vessels. It is possible that at some time spillage of debris or chemicals may occur. Therefore mitigation, as conditioned below under the Shoreline Substantial Development Permit, below, is warranted. Further conditioning for these potential impacts under SEPA is not required.

Parking

SEPA Policy SMC 25.05.675.M provides the authority to mitigate the impact of development on parking availability in this zone. The parking requirement for the proposed use is one space per 2,000 sq. ft. of area, per SMC 23.54.015 Chart A. According to this chart and the parking calculations shown on the plans, the parking requirement is the same as that for the current moorage use. The applicant is designating two parking spaces for the use of Larsson Marine, as shown on the plans. According to the SEPA Environmental Checklist submitted by the applicant, two to five people will be employed at this facility. Given the small number of persons employed at the facility, and the relatively large size of the Salmon Bay Terminal site which includes additional parking areas, off-site spillover parking impacts seem unlikely, therefore no mitigation is required.

Traffic

Vehicular access to the site will be from 13th Avenue West and West Ewing Street. An analysis of trip generation for the existing and proposed use at the site is not necessary in that the nature of the proposed use will not result in a significant amount of trips. According to the SEPA Checklist submitted by the applicant, an estimated range of “zero to four trips per workday” is anticipated. As a result of the above information, the use will not result in significant traffic impacts to the area. Consequently, no conditioning or mitigation pursuant to the SMC Chapter 25.05, the SEPA Ordinance is warranted.

DECISION SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance with conditions. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

SHORELINE SUBSTANTIAL DEVELOPMENT CONDITIONS

Prior to Issuance of Master Use Permit

1. A Spill Prevention, Control and Countermeasures (SPCC) Plan shall be prepared and include the following information:

- Identification of potential hazardous spill sources at the site. These items should include but are not limited to gasoline, oils, and chemicals. Hazardous materials are defined in RCW 70.150.010 under "hazardous substance".
- Description of responsive actions, including notification and reporting procedures, in the event of a spill or release of hazardous material.
- Description of personnel responsibilities, project site security, site inspections and training of appropriate personnel.

Prior to Final Inspection:

2. A spill protection kit shall be provided on site and employees shall be properly trained in using the spill protection kit.

Permanent for the Life of The Project:

3. Appropriate Best Management Practices (BMP) shall be employed during all activities at the site, including boat and ship repair work, to prevent debris, toxic material and/or other deleterious matter from entering Salmon Bay during such activities.
4. Debris, toxic material and/or other material that enters the water during the life of the project shall be removed immediately and disposed of at the appropriate upland facility.
5. Spill prevention and response material shall be kept at the site for quick response to any toxic spills, such as fuel, at the site.

NONAPPEALABLE CONDITION PRIOR TO FINAL INSPECTION

Applicant must provide to DPD proof of compliance with State DOE requirement for an Individual Shipyard NPDES permit, as described in their comment letter.

Signature: (signature on file)
Molly Hurley, Land Use Planner
Department of Planning and Development

Date: November 26, 2003